***Species at Risk Act***
Critical Habitat Report Series

# Progress Report on Unprotected Critical Habitat for the Woodland Caribou (Rangifer tarandus caribou), Boreal Population, in Canada

## Woodland Caribou, Boreal population

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For copies of this report, or for additional information on species at risk, including the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) Status Reports, residence descriptions, action plans, and other related recovery documents, please visit the Species at Risk (SAR) Public Registry[1].

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Note: The Woodland Caribou, Boreal population is referred to as "boreal caribou" in this document.

[1] http://sararegistry.gc.ca/default.asp?lang=En&n=24F7211B-1

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# 1. Introduction

Woodland Caribou, Boreal population ("boreal caribou") was listed under the *Species at Risk Act* (SARA) as threatened in June 2003 when the Act came into force.

In October 2012, the Government of Canada published the *Recovery Strategy for the Woodland Caribou, Boreal population (*Rangifer tarandus caribou*) in Canada*, which identified critical habitat in 50 of 51 identified ranges for the species in nine provinces and territories (Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Northwest Territories, Ontario, Quebec, Saskatchewan, and Yukon). This document, including the identification of critical habitat, can be found at: http://www.sararegistry.gc.ca/document/default_e.cfm?documentID=2253.

ECCC published the first 5-Year Report on the Implementation of the Recovery Strategy for boreal caribou on October 31, 2017. The Report provides information on conservation and recovery measures implemented or underway in each province or territory, the status of provincial and territorial recovery planning, and updates on habitat and population condition in each range. This report is publically available on the Species at Risk Public Registry at: http://registrelep-sararegistry.gc.ca/document/default_e.cfm?documentID=3199.

In February 2018, the Government of Canada published the *Action Plan for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal Population, in Canada - Federal Actions*, which outlines the recovery measures that the Government of Canada is taking or will take to help achieve recovery for boreal caribou, including in three key areas: 1) Knowledge to support recovery, including the creation of the National Boreal Caribou Knowledge Consortium to enable governments, Wildlife Management Boards, Indigenous peoples, and stakeholders to address key knowledge gaps, regularly share information and lessons learned, and to undertake studies to support boreal caribou recovery; 2) Recovery and protection activities, including the establishment of section 11 agreements with provinces and territories and other interested parties as well as action on federal lands; and 3) Reporting on progress. This document can be found at: http://www.sararegistry.gc.ca/document/default_e.cfm?documentID=407.

Consistent with the Minister's obligations under SARA section 63, this report provides a summary of steps taken to protect critical habitat. The report also provides a summary of additional steps to be taken in the near future to further protect critical habitat.

# 2. Non-Federal Lands

## 2.1. British Columbia

### Protection Assessment

For British Columbia, ECCC assessed the following provincial laws: the *Ecological Reserve Act*, the *Parks Act*, the *Forest Act*, the *Forest and Range Practices Act*, the *Land Act*, the *Petroleum and Natural Gas Act*, the *Oil and Gas Activities Act*, the *Water Sustainability Act*, and the *British Columbia Environmental Assessment Act*.

With respect to the protection of critical habitat, while some activities likely to destroy boreal caribou critical habitat are prohibited and regulated to varying degrees under various provincial laws, the discretion to authorize activities (e.g., the issuance of permits) is not generally subject to constraints consistent with those under SARA (e.g., section 73), with the exception of ecological reserves subject to the *Ecological Reserve Act* (238 ha or 0.01% of British Columbia ranges).

### Steps Taken and to be Taken to Protect Boreal Caribou Critical Habitat

The federal *Report on the Progress of Recovery Strategy Implementation for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada for the Period 2012-2017)* noted that:

- The Province of British Columbia released the revised draft British Columbia Boreal Caribou Recovery Implementation Plan (BCRIP) in March 2017, which was posted for public comment from April 1 to May 31, 2017. The BCRIP:
    - Set long-term goals and provided draft range-by-range implementation plans for the recovery and management of boreal caribou in British Columbia; and
    - Outlined a plan to revise existing habitat protections under the Forest and Range Practices Act and the Oil and Gas Activities Act (i.e., the prohibition of new road construction and forest harvesting, and specific harvesting conditions), to better align with improved understanding of boreal caribou habitat use and distribution.
- The Province of British Columbia has completed early work on ecological restoration in the Parker range.
- In September 2017, the Fort Nelson First Nation released the Medzih Action Plan for the recovery of boreal caribou within the area covered by the plan to self-sustaining levels and with sufficient resilience to allow subsistence hunting by Fort Nelson First Nation within 20 years. Among other actions, the plan proposes protection and restoration zones and a series of actions to refine and review protection and restoration over time.

- The Doig River First Nation released the madziih Traditional Knowledge and Restoration Study in December 2016, which identifies 14 management actions including habitat protection, and notes the need to take steps to restore habitat.

## 2.2. Alberta

**Protection Assessment**

For Alberta, ECCC assessed the following provincial laws: the *Wildlife Act*; the *Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act*; the *Provincial Parks Act*; the *Alberta Land Stewardship Act*; the *Forests Act*; the *Public Lands Act*; and the *Mines and Minerals Act*.

With respect to the protection of critical habitat, while activities likely to destroy boreal caribou critical habitat are prohibited and regulated under various provincial laws, the discretion to authorize these activities (e.g., the issuance of permits, dispositions, licenses, agreements or approvals) is not subject to constraints consistent with those under SARA (e.g., section 73).

The *Wilderness, Areas Ecological Reserves, Natural Areas and Heritage Rangelands Act* and the *Provincial Parks Act* include provisions that prohibit new dispositions for most activities likely to destroy boreal caribou critical habitat within Ecological Reserves and Wildland Provincial Parks, respectively. However, certain industrial activities may be permitted based on existing mineral commitments, and these dispositions can be continued or renewed, or not, at the Minister's discretion. There are also some exemptions within both Acts that may allow other activities under specific conditions.

**Steps Taken and to be Taken to Protect Boreal Caribou Critical Habitat**

The federal *Report on the Progress of Recovery Strategy Implementation for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada for the Period 2012-2017)* noted that:

- Range planning was initiated by the Government of Alberta in 2013, with the intent of minimizing the intensity of industrial disturbance on the landscape, and of contributing to the conservation and recovery of their caribou populations;
- The draft *Little Smoky and A La Peche Caribou Range Plan* was released for public consultation in June 2016;
- In 2012 and 2013, a deferral of forest harvesting was put in place in the portions of the Little Smoky range that are outside of areas with previous logging footprint; and
- Since 2012, changes were made to a number of regulations and procedures to mitigate impacts of industrial activity on caribou habitat, including:
    - The adoption of the Enhanced Approval Process and the Master Schedule of Standards and Conditions as an evolving process for reviewing surface land-use applications;

- Interim restriction on the sale of mineral rights within all caribou ranges, introduced in 2016, which applies to petroleum and natural gas, oil sands, coal, metallic and industrial mineral rights; and
- Standard operating conditions for seismic exploration activity in the Little Smoky caribou range.

In December 2017, the Government of Alberta released a draft provincial *Woodland Caribou Range Plan*, which incorporated input from the public consultation for the draft *Little Smoky and A La Peche Caribou Range Plan*, and which proposes the development of new requirements for new oil and gas approvals and seismic exploration programs; the introduction of mandatory integrated land management requiring multi-use corridors and shared access for industrial activities: the consolidation of forest harvesting operations in pre-defined areas per decade; and the identification and protection of conservation areas in caribou ranges.

## 2.3. Saskatchewan

### Protection Assessment

For Saskatchewan, ECCC assessed the following provincial laws: *The Wildlife Act, 1998*; *The Environmental Management and Protection Act, 2010*; *The Forest Resources Management Act*; *The Provincial Lands Act, 2016*; the *Saskatchewan Environmental Code*; and *The Parks Act*. As critical habitat has not yet been identified for the Boreal Shield (SK1) range, the critical habitat protection assessment has only been undertaken for the Boreal Plain (SK2) range.

With respect to the protection of critical habitat, while activities likely to destroy boreal caribou critical habitat are prohibited and regulated under various provincial laws, the discretion to authorize activities (e.g., the issuance of licenses or permits) is not subject to constraints consistent with those under SARA (e.g., section 73).

It is noted that *The Forests Resources Management Act* and provisions set out in the Saskatchewan Environmental Code standards allow for the mandatory consideration of caribou habitat for all Forest Management Plans in Saskatchewan. However, the standards do not require a specific minimum threshold of undisturbed habitat, whereas ECCC's critical habitat identification for the species established a 65% undisturbed habitat threshold. In addition, there are two ecological reserves and 21 representative area ecological reserves within the Boreal Plain range, which prevent some, but not all, disturbance due to human activity in boreal caribou critical habitat.

### Steps Taken and to be Taken to Protect Boreal Caribou Critical Habitat

The federal *Report on the Progress of Recovery Strategy Implementation for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada for the Period 2012-2017)* noted that:

- Following the release of the federal recovery strategy in October 2012, the Saskatchewan Ministry of Environment initiated a Woodland Caribou Range Assessment and Range Planning Program, for both the Boreal Shield (SK1) and Boreal Plain (SK2) ranges.
- In October 2017, Saskatchewan published its draft Range Plan for Woodland Caribou in Saskatchewan, Boreal Plain Ecozone – SK2 Central Administration Unit, which proposes the implementation of five management strategies to reduce landscape disturbance in boreal caribou habitat: restoration and reclamation; mitigation offsets for new disturbances; forest harvest patterns; access management; and avoidance.

## 2.4. Manitoba

### Protection Assessment

For Manitoba, ECCC assessed the following provincial laws: *The Endangered Species and Ecosystems Act*, *The Environment Act*, *The Wildlife Act*, *The East Side Traditional Lands Planning and Special Protected Areas Act*, *The Provincial Parks Act*, and *The Ecological Reserves Act*.

With respect to the protection of critical habitat, while activities likely to destroy boreal caribou critical habitat are prohibited and regulated under various provincial laws, the discretion to authorize activities (e.g., the issuance of permits or approvals) is not subject to constraints consistent with those under SARA (e.g., section 73).

It should be noted that *The Endangered Species and Ecosystems Act* (ESEA) includes enforceable prohibitions that are comparable to the prohibitions under SARA section 61. However, the prohibition against habitat destruction is currently not being applied to boreal caribou habitat until range-specific mapping is complete. Without range plans in place, the impact of other instruments to prevent critical habitat destruction, such as *The Environment Act*, also cannot be fully assessed.

### Steps Taken and to be Taken to Protect Boreal Caribou Critical Habitat

The federal *Report on the Progress of Recovery Strategy Implementation for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada for the Period 2012-2017* noted that:

- The Government of Manitoba has committed to meeting its responsibility to boreal caribou as outlined in Manitoba's Boreal Woodland Caribou Recovery Strategy.
- As part of the 2015 provincial recovery strategy, the Government of Manitoba delineated 9 boreal caribou management units that represented geographic areas within which one or multiple local caribou populations exist, and has committed to timelines for completing action plans for all 9 management units; five of nine range plans are scheduled for completion by 2018 with the remaining four by 2020. In addition, 'recovery habitat' will be identified and mapped within those management unit action plans.
- First Nation communities along the east side of Lake Winnipeg have recommended World Heritage Site designation for broad areas of boreal caribou ranges as non-development zones, which will carry protections from resource development, supported through legislation, if the World Heritage Side designation is successful; Additional communities across boreal caribou range are beginning to explore land use and community planning, including for caribou habitat protection.

## 2.5. Ontario

### Protection Assessment

For Ontario, ECCC assessed the following provincial laws: the *Endangered Species Act, 2007* (ESA), the *Provincial Parks and Conservation Reserves Act* (PPCRA), the *Fish and Wildlife Conservation Act* (FWCA), the *Crown Forest Sustainability Act* (CFSA), the *Far North Act* (FNA), the *Public Lands Act* (PLA), and the *Environmental Assessment Act* (EAA).

ECCC also considered Ontario's policy framework for boreal caribou, including but not limited to: *Ontario's Woodland Caribou Conservation Plan*, the *Range Management Policy in Support of Woodland Caribou Conservation and Recovery* and Integrated Range Assessment Reports, and the *General Habitat Description for the Forest-dwelling Woodland Caribou (*Rangifer tarandus caribou*)*.

With respect to critical habitat, while the Provincial regime includes laws, policies and processes with measures to address many aspects of the conservation threats facing boreal caribou, there are some differences of approach such that the regime is not fully consistent with the provisions of SARA and cannot be expected to achieve a protection outcome equivalent to what would be required under SARA.

In general, the ESA provides prohibitions for boreal caribou critical habitat on non-federal lands that are broadly consistent with the prohibitions under SARA, with similar constraints on permitting and discretion as exist under SARA. However, while the ESA (under s. 10) protects general habitat for boreal caribou, the General Habitat Description does not include a specific minimum threshold of undisturbed habitat, whereas a threshold for undisturbed habitat is a key requirement of ECCC's critical habitat identification (i.e., 65% undisturbed habitat). Notably, however, Ontario's Range Management Policy does aim to manage cumulative disturbance at a level that supports self-sustaining caribou populations, and to manage the amount and arrangement of habitat consistent with levels that have been estimated to occur in natural landscapes. In addition, Ontario Regulation 242/08 (General Regulation - *Endangered Species Act, 2007*) (O. Reg. 242/08) provides for regulatory exemptions for certain activities from the prohibitions of the ESA, when important conditions and requirements are met that significantly constrain the activities. Notably, in relation to the regulatory exemption for forest operations in Crown forests, the 2014 guidelines under the CSFA require forest managers to follow "Dynamic Caribou Habitat Schedule" to support management decisions to ensure a sustainable supply of caribou habitat over space and time. On April 10, 2018, the Province of Ontario posted amendments to O. Reg. 242/08, including an extension of the regulatory exemption for forest operations in Crown forests until July 1, 2020, rather than July 1, 2018.

Ontario legal instruments (notably the *Provincial Parks and Conservation Reserves Act, 2006* and the *Far North Act)* provide for prohibitions on certain activities likely to cause

critical habitat destruction (i.e. mining and mineral exploration, and forestry) that are generally expected to result in an outcome that is broadly consistent with the SARA prohibitions with respect to those activities for critical habitat within provincial parks, conservation reserves, and dedicated protected areas. However, the discretion to authorize other activities likely to destroy critical habitat is not subject to constraints that are fully consistent with those under SARA (e.g., section 73).

**Steps Taken and to be Taken to Protect Boreal Caribou Critical Habitat**

Steps taken by the Government of Ontario that relate to protection of boreal caribou are outlined below, and include information highlighted in the federal *Report on the Progress of Recovery Strategy Implementation for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada for the Period 2012-2017*:

- In 2013, Ontario published the *General Habitat Description for the Forest-dwelling Woodland Caribou (*Rangifer tarandus caribou*)*, a technical document that provides greater clarity in relation to the habitat protected under the *Endangered Species Act, 2007* (ESA).
- In 2014, the Government of Ontario released its *Range Management Policy in Support of Woodland Caribou Conservation and Recovery*, which describes how the Government of Ontario will make coordinated planning decisions to maintain or improve boreal caribou range conditions. The policy applies to all ranges except the Coastal range (ON6). The policy describes a Range Management Approach, the implementation of which Ontario considers to be its approach to province-wide range planning.
- With respect to the Coastal range (ON6), where Ontario's *Range Management Policy in Support of Woodland Caribou Conservation and Recovery* does not apply, Ontario has been working since 2016 to develop a policy approach for managing the range that is consistent with the direction outlined in *Ontario's Woodland Caribou Conservation Plan*.
- The 2014 *Forest Management Guide for Boreal Landscapes*, under the authority of the *Crown Forest Sustainability Act* (CFSA), set caribou-specific habitat objectives that direct forest managers to manage the quality, quantity and arrangement of caribou habitat, and which included a mapped "Dynamic Caribou Habitat Schedule" to support management decisions to ensure a sustainable supply of caribou habitat over space and time. Any new forest management plans scheduled for implementation on or after April 1, 2017, are required to follow the guidance outlined in the 2014 *Forest Management Guide for Boreal Landscapes*.
- With respect to forest management planning in Crown forests, Ontario has been evaluating and conducting targeted consultations on options to better integrate the requirements of the ESA and CFSA, following expiry of the related ESA regulatory exemption.

- In the Far North Planning Area, Ontario is working with First Nations on the development of community based land use plans under the Far North Act, which include the identification of dedicated protected areas, working towards the objective of 225,000 km2 of interconnected protected areas in the Far North of Ontario. These dedicated protected areas are expected to include areas of valuable caribou habitat. Five plans have been approved to date, and eight more are under development.
- The province of Ontario has made significant investments into science and monitoring work, including work under the Collaborative Provincial Caribou Research Program, which could lead to further advancements in protection and recovery of boreal caribou in Ontario.

Prior to, during, and since the 5-years mentioned above, Ontario has made significant investments (over $11 million) in taking many important and positive steps for caribou recovery guided by its *Woodland Caribou Conservation Plan, 2009*.

In March 2018, Ontario posted a discussion paper, *Seeking Advice on the Future of Caribou in the Lake Superior Coast Range* to obtain public input to inform the development of a management approach for this range and the area of "Discontinuous Distribution" between this range and those further to the North.

Finally, between January 19 and March 5, 2018 Ontario consulted on a proposal that would extend the regulation that exempts forest operations in Crown forests under the ESA (s. 22.1 of O. Reg. 242/08) to apply to forest operations conducted prior to July 1, 2020 rather than July 1, 2018. Ontario has proposed that, during the extension period, an independent panel be formed that will be tasked with providing advice to the Provincial Government to support the development of a long-term approach to addressing species at risk – including boreal caribou – and their habitat requirements in Crown forest management. The proposed amendments were posted on April 10, 2018. The Province of Ontario has also indicated in the proposal that the extension would provide an opportunity to explore the development of a conservation agreement with the Government of Canada for boreal caribou.

## 2.6. Quebec

### Protection Assessment

For Quebec, ECCC assessed the following laws, including their associated regulations: the *Act Respecting Threatened or Vulnerable Species*, the *Act Respecting the Conservation and Development of Wildlife*, the *Natural Heritage Conservation Act*, the *Parks Act*, the *Environment Quality Act* and the *Sustainable Forest Development Act*. The analysis also took into account, when applicable, the terms and conditions of the *James Bay and Northern Quebec Agreement,* the *North Eastern Quebec Agreement* and the resulting agreements.

With respect to critical habitat, certain activities likely to destroy boreal caribou critical habitat are, to various degrees, prohibited and regulated under provincial legislative tools. However, the areas subject to protection are small, and the discretion to authorize these activities (e.g., the issuance of permits or approvals) is not subject to constraints consistent with those provided for under SARA.

### Steps Taken and to be Taken to Protect Boreal Caribou Critical Habitat

The *Report on the Progress of Recovery Strategy Implementation for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada for the Period 2012-2017* noted that:

- In 2013, the Quebec woodland caribou recovery team published the *Plan de rétablissement du caribou forestier au Québec* [Recovery plan for the woodland caribou in Quebec] (2013–2023) and the *Lignes directrices pour l'aménagement de l'habitat du caribou forestier* [Guidelines for woodland caribou habitat management], so they could be taken into account during the planning of forestry activities and the calculation of allowable cuts.
- In 2015, the Quebec Department of Forests, Wildlife and Parks released a report on its analysis to document the impact that the integration of the guidelines developed by the recovery team was having on the habitat and allowable cuts.
- Adjustments made to the northern boundary for timber allocations, based on the recommendations of a scientific committee that took into account boreal caribou, were approved in October 2016 and came into force on April 1, 2018.
- In April 2016, the Government of Quebec released its Action Plan (in two phases) for the management of woodland caribou habitat. It includes plans to create two large protected areas for boreal caribou (already under administrative protection), to increase the total protected area in these sectors to more than 20,000 $km^2$. The Action Plan also proposes increased effort by wildlife protection officers to monitor caribou. Moreover, the Government of Quebec is working to delineate landscapes and develop new management conditions to support the recovery of

caribou herds. It is also implementing trials to dismantle forest roads and develop a new approach to natural resource development, adapted for caribou habitat. In addition, the Government of Quebec is analyzing the socio-economic consequences of planned measures, is consulting concerned stakeholders and partners (stakeholders, First Nations, experts), and is working to identify other wood supply sources.

- In April 2017, the Government of Quebec announced a $7M investment over three years, to launch a strategy to monitor caribou populations and fund operational trials.
- The Quebec Department of Forests, Wildlife and Parks is working to identify critical sectors that could be subject to temporary protection measures, pending the publication of its long-term strategy for woodland caribou habitat management, which is expected to be released in late 2018.

## 2.7. Newfoundland and Labrador

### Protection Assessment

For Newfoundland and Labrador, ECCC assessed the following provincial laws: *Endangered Species Act*, *Wild Life Act*, *Wilderness and Ecological Reserves Act*, *Forestry Act*, *Mineral Act*, *Water Resources Act*, *Urban and Rural Planning Act*, *Lands Act*, *Labrador Inuit Lands Act*, *Petroleum and Natural Gas Act*, *Environmental Protection Act*, the *Nunatsiavut Environmental Protection Act* and the *Nunatsiavut Exploration and Quarrying Standards Act*.

With respect to critical habitat, while activities likely to destroy boreal caribou critical habitat are prohibited and regulated under various provincial legislative tools, the scope of these prohibitions and the constraints on discretion to authorize activities (e.g., the issuance of permits or approvals) are not consistent with the prohibitions and constraints on discretion provided for under SARA.

The *Wilderness and Ecological Reserves Act*, which applies to < 1% of critical habitat in the province, includes prohibitions that are similar to the prohibitions under SARA, which prevent or restrict activities likely to destroy boreal caribou critical habitat within Ecological Reserves. However, as exemptions and regulations can be created to permit many of those activities, the application of this law would provide similar but not equivalent protection outcomes as the application of SARA.

The *Nunatsiavut Exploration and Quarrying Standards Act* provides prohibitions on exploration in areas where critical habitat is known to exist on Labrador Inuit Lands (< 1% of boreal caribou critical habitat in Labrador), but the Act does not include offenses or enforcement provisions. The President in Council may make orders and regulations to give the exploration and quarrying standards the force of Inuit Law and to consent to amendments agreed to by the Nunatsiavut Government and the Province. These Standards have been established pursuant to section 4.11.6 of the Labrador Inuit Land Claims Agreement (2005). The Act provides outcomes similar but not equivalent to SARA in respect to exploration activities.

The *Endangered Species Act* provides the Government of Newfoundland and Labrador with the power to make an order to set aside an area of land to be protected as recovery habitat and critical habitat. However, to date, no orders have been made for boreal caribou under this Act.

### Steps Taken and to be Taken to Protect Boreal Caribou Critical Habitat

The federal *Report on the Progress of Recovery Strategy Implementation for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada for the Period 2012-2017* noted that:

- The Province of Newfoundland and Labrador has been updating the provincial recovery plan, in which emerging range information will feature and support future land use planning. In addition, other initiatives are contributing towards protected area planning, such as the Conservation Blueprint for Labrador project done in partnership with Nature Conservancy of Canada.
- Steps have been taken to protect habitat from forest harvesting. For example, in Forestry Management District 19, coordinated forestry planning with the Innu Nation has put measures in place to conserve forested areas within the Red Wine Mountain (NL2) range. There are no commercial forestry activities, silviculture or roadbuilding permitted within the reserve, and some small scale domestic harvest is permitted. This reserve was set aside for the 2013-17 plan and is proposed again for the 2018-2022 forestry planning cycle.
- The limited forest harvesting that occurs in the area of boreal caribou ranges in Labrador is not permitted in commercial blocks during the most sensitive period for caribou (May 30 - July 15). Conditions are also applied on domestic permits for areas which intersect the core use areas for the NL2 range.

## 2.8. Northwest Territories

### Protection Assessment

For Northwest Territories (NWT), ECCC assessed the following territorial laws: the *Species at Risk (NWT) Act*, the *Wildlife Act*, the *Territorial Parks Act* and *Territorial Parks Regulations*, and the *Northwest Territorial Lands Act*.

With respect to the protection of critical habitat, boreal caribou critical habitat in the Northwest Territories is not subject to prohibitions, with constraints on the discretion to authorize activities, in a manner consistent with the provisions of SARA.

It is noted, however, that five established protected areas currently overlap with the NT1 range in Northwest Territories, which prevents some disturbance due to human activity in boreal caribou critical habitat. Seven additional 'candidate areas' overlapping with the range have been proposed and currently have interim protection through land withdrawals or land use plans.

Moreover, regional land use plans contribute to conservation of boreal caribou habitat in the Northwest Territories through mechanisms such as conformity requirements, land protection directives, and zoning that regulates or restricts industrial development activity in certain areas. Approved land use plans are implemented through comprehensive land claim agreements and the *Mackenzie Valley Resource Management Act*. Together, completed and draft land use plans apply to approximately 80% of the Northwest Territories range (NT1). Additionally, community conservation plans formalizing conservation priorities for the Inuvialuit Settlement Region have been in place since 1993 and were updated in 2016.

It is further noted that, while the Government of NWT has the authority to make regulations under the *Species at Risk (NWT) Act* to protect critical habitat, no such regulations have been put in place.

Finally, without range plans in place, the impact of other instruments or measures to prevent critical habitat destruction cannot be fully assessed. In addition, the interplay between federal and territorial laws, in the NT1 range, requires additional analysis.

### Steps Taken and to be Taken to Protect Boreal Caribou Critical Habitat

The federal *Report on the Progress of Recovery Strategy Implementation for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada for the Period 2012-2017)* noted that:

- In 2014, a new *Wildlife Act* for the NWT came into force, with requirements for project-specific wildlife management and monitoring plans;

- In 2016, the Government of NWT released *Healthy Land, Healthy People: GNWT Priorities for Advancement of Conservation Network Planning 2016-2021*, which outlines how the Government of NWT is moving forward collaboratively with conservation network planning in the NWT;
- In February 2017, the Government of NWT and its co-management partners developed and published the *Recovery Strategy for the Boreal Caribou (*Rangifer tarandus caribou*) in the Northwest Territories*.
- In November 2017 the Government of NWT and its co-management partners developed and published a Consensus Agreement Respecting the Implementation of the Recovery Strategy for Boreal Caribou in the Northwest Territories.

## 2.9. Yukon

### Protection Assessment

For Yukon, ECCC assessed the following territorial laws: the *Wildlife Act*, the *Parks and Land Certainty Act*, the *Environment Act*, and the *Forest Resources Act*.

The Yukon has no stand-alone legislation protecting species at risk; however, certain activities impacting individuals of wildlife species are regulated under the *Wildlife Act*.

With respect to the protection of critical habitat, while activities likely to destroy boreal caribou critical habitat are prohibited and regulated under various territorial laws, the discretion to authorize activities (e.g., the issuance of licenses or permits) is not subject to constraints consistent with those under SARA (e.g., section 73).

It is noted that a Yukon Government Order in Council (2017/204) is currently in place to prevent any new dispositions from being offered under the *Placer Mining Act* and the *Quartz Mining Act*, as well as waiving the requirement that activity occur to maintain the existing claims, within the range of boreal caribou in the Yukon.

Moreover, without range plans or a completed *Peel Watershed Land Use Plan* in place, the impact of other instruments or measures to prevent critical habitat destruction cannot be fully assessed.

### Steps Taken and to be Taken to Protect Boreal Caribou Critical Habitat

The federal *Report on the Progress of Recovery Strategy Implementation for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada for the Period 2012-2017* noted that, since 2010, the Yukon Government has implemented a temporary mineral claim staking withdrawal, prohibiting the staking of new mineral claims until 1 January 2020. Existing rights holders are also relieved of their obligations for annual activity on their claims. New oil and gas rights will also not be issued during this withdrawal period, nor are there any existing rights.

The Yukon Government began a one-year process on January 29, 2018, to consult on the final recommended draft *Peel Watershed Regional Land Use Plan*.

# 3. Federal Lands

Federally-administered lands are directly managed by federal government departments and agencies. To date, the Parks Canada Agency has provided legal protection to boreal caribou critical habitat in Prince Albert National Park of Canada, Wood Buffalo National Park of Canada, and Nahanni National Park Reserve of Canada. ECCC has determined that, on federally-administered lands, excluding those administered by PCA, existing federal laws and regulations do not currently provide for mandatory, enforceable prohibitions against the destruction of boreal caribou critical habitat.

## 3.1. Parks Canada Agency-administered Lands

In addition to protection in place in Prince Albert National Park of Canada, Wood Buffalo National Park of Canada, and Nahanni National Park Reserve of Canada, the Parks Canada Agency will continue to work with Canadians to protect boreal caribou critical habitat in protected heritage places administered by the Agency using provisions in, and measures under, federal legislation applicable to the Agency, including the *Canada National Parks Act*.

## 3.2. Other federally-administered lands

On other lands that are directly managed by federal government departments and agencies, ECCC is taking steps to put critical habitat protection in place through an order under SARA section 58. To this end, ECCC is conducting pre-regulatory consultations and preparing a ministerial order to be published in the *Canada Gazette* in 2018.

## 3.3. Indian Act lands

Lands set apart for the use and benefit of a band under the *Indian Act* (i.e. *Indian Act* lands), such as reserves, are included in the definition of federal lands under SARA section 2. The federal government is working with Indigenous peoples to collaboratively develop a path forward for the protection of critical habitat on *Indian Act* lands. To support this effort, a First Nations Advisory Committee on Species at Risk has been established in accordance with section 9 of SARA, to work with ECCC to advance the conservation of species at risk, including through knowledge sharing and policy development.

## 3.4. Devolved Lands

In the Yukon and Northwest Territories, devolution agreements have given administration and control of large portions of land to the Yukon and Northwest Territories governments. The federal government is working with the governments of the Yukon and Northwest Territories, Indigenous governments and organizations, and northern Wildlife Management Boards to develop a path forward for protection of critical

habitat on devolved lands (also known as territorial lands) in a manner that respects the intent of devolution. The protection assessments and steps taken to protect critical habitat for these territories are included under their respective sections of this section 63 report.